

# Behavioral Health Services and the Community Integration Mandate: **What's at Stake for North Dakota?**

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# Community Integration Mandate

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- Americans with Disabilities Act (ADA)/Rehabilitation Act/*Olmstead*
- Public entities must administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
- The “most integrated setting” is one that enables Individuals with disabilities to interact with nondisabled persons to the fullest extent possible.

# Community Integration Mandate

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- To comply with the “most integrated setting” requirement, public entities must reasonably modify their policies, procedures, or practices where necessary to avoid discrimination.
- **UNLESS** – requested modifications would “fundamentally alter” the service system.
- Applies to ALL People with Disabilities!

# ***Olmstead v. L.C. (1999)***

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Under the ADA (and the Rehabilitation Act),

**“States are required to provide community based treatment for persons with mental disabilities when**

- the State’s treatment professionals determine that such placement is appropriate,
- the affected persons do not oppose such treatment, and
- the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.”

# The Law after *Olmstead*

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## Not just state institutions.

*Olmstead* applies to privately owned and operated facilities in the state's service delivery system.

- *Disability Advocates, Inc., v. Paterson*, 653 F. Supp.2d 184 (E.D.N.Y. 2009)
- *Williams v. Quinn*, 748 F. Supp.2d 892 (N.D. Ill. 2010)
- *State of Connecticut Office of Protection and Advocacy for Persons with Disabilities*, 706 F. Supp.2d 266 (D. Ct. 2010)

# The Law after *Olmstead*

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**“At Risk” people are protected, too.**

“At Risk” = people with disabilities who live in the community but who have under-treated behavioral health conditions that place them at serious risk of institutionalization.

- *Olmstead v. L.C.*, 527 U.S. 581 (1999)
- *Fisher v. Okla. Health Care Auth.*, 335 F.3d 1175 (10<sup>th</sup> Cir. 2003)
- *Radaszewski v. Maram*, 383 F.3d 599 (7<sup>th</sup> Cir. 2004)

# Mental Health Programs and Practices

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- Permanent Supported Housing
- Assertive Community Treatment
- Case Management
- Mobile Crisis Response and Stabilization
- Supported Employment
- Peer Services
- Integrated Mental Health and Substance Use Services
- Health Home

# Substance Use Disorders Programs and Practices

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- Modified Therapeutic Community
- 12-Step or other Peer-Based Recovery Support Programs
- Case Management
- Medication-Assisted Treatment (Pharmacotherapy)



# Behavioral Health Services for Children and Youth

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- Intensive Care Coordination (Wraparound)
- Intensive In-Home Supports
- Mobile Crisis Response and Stabilization
- Parent and Youth Peer Support services
- Respite Services
- Flex Funds for Customized Services
- Mentoring
- Supported Employment for Adolescents

# **U.S. Department of Justice**

## ***Olmstead* Enforcement**

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### **DOJ Settlement Agreements:**

- *U.S. v. Georgia* (2010)
- *U.S. v. Delaware* (2011)
- *U.S. v. North Carolina* (2012)
- *U.S. v. New Hampshire* (2014)
- *U.S. v. New York* (2014)
- *U.S. v. Louisiana* (2018)
- *U.S. v. West Virginia* (2019)

# ***U.S. v. Georgia***

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**Target Population:** 9,000 individuals with Serious and Persistent Mental Illness (SPMI) who are

- Currently being served in state hospitals;
- Frequently readmitted to state hospitals;
- Frequently seen in hospital emergency rooms;
- Chronically homeless; or
- Being released from jails or prisons.

Individuals with SPMI on forensic status are included “if the relevant court finds that community service is appropriate.”

Target population includes people with SPMI who have co-occurring conditions like substance abuse disorders or traumatic brain injuries.

# ***U.S. v. Georgia***

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## **Georgia must provide Supported Housing (“Housing First”):**

- Integrated housing = scattered-site housing (no more than 20% of units in apartment building)
- Permanent housing = tenancy rights = person is leaseholder
- Services available but not required
- No Group Homes
- Bridge Funding
- Voucher-based vs. Project-based

# ***U.S. v. Georgia***

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## **Georgia must provide community services:**

- Assertive Community Treatment (ACT)
- Community Support Teams (CST)
- Intensive Case Management (ICM)
- Case Management Services
- Crisis Services:

Crisis Service Centers

Community Hospital Beds

Mobile Crisis Services

Crisis Stabilization Programs

Crisis Call Center

# ***U.S. v. Georgia***

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**Georgia must provide community services:**

- Supported Employment
- Peer Support Services
- Transition Planning
- Quality Management System

# ***U.S. v. West Virginia***

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- Screening/Assessment

- Intensive In-Home and Community-Based Services:

Wraparound Facilitation

Behavioral Support Services

Children's Mobile Crisis Response

Family Support And Training

In-home Therapy

Therapeutic Foster Care

Assertive Community Treatment (ACT)

- Qualify Assurance/Performance Improvement System

# Medicaid 1915(i) State Plan Option:

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- Community-based services.
- No cost neutrality requirement - services in the community can cost more than services in an institution.
- No institutional level of care requirement - state can offer services and supports before institutionalization.
- States can target population, with flexible service packages.
- No waiting list – no caps on enrollment.
- No geographic limits – entire state covered.



# Questions?

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